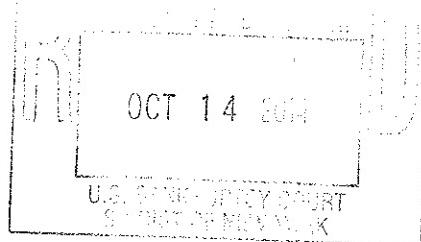


1 Marvin E McDougal Jr. Pro Per
2 P.O. Box 927
3 Tiburon, Ca. 94920
4 Telephone: (415) 601-7060
5 Facsimile: (707) 395-4708



6 UNITED STATES BANKRUPTCY COURT
7 SOUTHERN DISTRICT OF NEW YORK

8
9 In re:) Case No. 12-12020
10 RESIDENTIAL CAPITAL, LLC, et al.,) Chapter 11
11 Debtors.) Jointly Administered
12)
13)

14
15 Re: RESCAP BORROWER CLAIMS TRUST'S
16 SEVENTY-FIFTH OMNIBUS OBJECTION TO CLAIMS
17 (NO LIABILITY BORROWER CLAIMS)

18 TO THE HONORABLE MARTIN GLENN
19 UNITED STATES BANKRUPTCY JUDGE:

20 RELIEF REQUESTED

21 1. The ResCap Borrower Claims Trust (the "Trust") via the Seventy-fifth
22 Omnibus Objection attempts to disallow and expunge the claims listed in their exhibit A, which
23 includes Marvin E. McDougal Jr's claim #5892. The Trust examined the documents provided by Mr.
24 McDougal and determined that the claim should be disallowed as it fell under the following
25 catagories, General Servicing Issues, Wrongful Foreclosure and Standing Issues. While Mr. McDougal
26 does not dispute the general chronology of events as outlined in the Trust's exhibit 1. Mr. McDougal
does object to the cherry picking of facts to support the Trust's argument for disallowing claim #5892.
The Trust's argument begins by outlining the Debtor's involvement with the Mr. McDougal's loan as
originated by All California Mortgage, Inc. April 24, 2006.

1 Non debtor GMAC Bank purchased the loan from All California Mortgage and subsequently
2 transferred its interest to Debtor GMAC Mortgage, who transferred its interest to Residential Funding
3 who transferred its interest when the loan was securitized on or about June 1, 2006 where Deutsche
4 Bank Trust Company was appointed Trustee. Debtor GMAC Mortgage, LLC serviced the loan from
5 May 11, 2006 until servicing transferred to Ocwen Loan Servicing on February 16, 2013. As stated in
6 the Trust's argument Mr. McDougal claims wrongful foreclosure, invalid assignment of note,
7 equitable subrogation, fraud, and failure to assist. The Trust asserts that the Debtor has no liability for
8 assertions by the Mr. McDougal of an invalid assignment of note and deed of trust claiming the
9 assignment of mortgage on record properly assigns the mortgage to Deutsche Bank Trust Company
10 Americas as Trustee. This is factually incorrect as No such recording took place at the Marin County
11 recorders office on or about June 1, 2006. Thus supporting Mr. McDougal's claim of wrongful
12 foreclosure, invalid assignment of note and deed of trust as well as lack of standing with respect to the
13 loan and property at issue. The original deed of trust between Mr. McDougal and All California
14 Mortgage was recorded May 5, 2006. (See Exhibit A) The Trust asserts that the Debtor has no liability
15 for Mr. McDougal's claim for failure to assist while the property and Mr. McDougal were encumbered
16 in a eminent domain legal action against the County of Marin, case # 080838. Having established the
17 fact that the assignment of deed of trust to Deutsche Bank Trust Company Americas never occurred,
18 technically All California Mortgage , Inc was still the holder of the deed of trust. Throughout the
19 process of the legal action against the County of Marin and up until the point that Mr. McDougal was
20 forced into filing Chapter 7 Bankruptcy on July 21, 2010, GMAC mortgage and all its representatives
21 maintained that they were if fact the holder of the note and deed of trust. Thus supporting Mr.
22 McDougal's claim of fraud and failure to assist as GMAC Mortgage and all of it's representatives had
23 a responsibility to put Mr. McDougal and his representatives in contact with the true legal investor and
24 holder of the note and deed of trust as both parties had a substantial investment in the encumbered
25 property. On August 23, 2010 All California Mortgage and GMAC Mortgage complete the
26 assignment of deed of trust to Deutsche Bank Trust Company Americas, post Mr. McDougal's
27 Chapter 7 filing of July 21, 2010. (See Exhibit B)

1 On October 28, 2010 Mr. McDougal challenged the validity of the assignment of deed of trust
2 executed by All America Mortgage, GMAC Mortgage and Deutsche Bank Trust Company Americas
3 in the Honorable Judge Jaroslovky's Northern California District Bankruptcy Court. Judge Jaroslovsky
4 ruled " Relief of stay is granted without prejudice to all the legal rights held by the Debtor. The
5 granting of relief from the automatic stay is not an adjudication of Creditors right to foreclose." (See
6 Exhibit C) The effect of the order preserves Mr. McDougal's right to pursue a legal remedy in State
7 court.

8 In Summary the Trust portrays the Debtor as accommodating to Mr. McDougal while Mr.
9 McDougal and his representatives prosecuted case # 080838 in Marin County Superior Court. This
10 assertion could not be further from the truth. Mr. McDougal and his representatives had to continually
11 argue the merits of working together, as it was assumed both parties had a vested interest in
12 unencumbering the subject property. When those arguments fell on deaf ears, legal action was
13 threatened until Mr. McDougal was forced by GMAC Mortgage and its representatives to file Chapter
14 7 Bankruptcy. It was only after Mr. McDougal filed Chapter 7 Bankruptcy on July 21, 2010 that
15 Deutsche Bank Trust Company Americas was identified as the holder of the deed of trust via the
16 August 23, 2010 recording. The result of which recognizes All American Mortgage as the holder of
17 the deed of trust up until the point of the August 23, 2010 recording in Marin County. Said August 23,
18 2010 recording will only be recognized as valid if upheld in State Court as per Judge Jaroslovsky's
19 October 28, 2010 ruling thus preserving Mr. McDougal's rights. The Trust argues that Mr.
20 McDougal's claim of \$1,650,000 is without merit. While it is difficult to quantify the stress, damage to
21 Mr. McDougal's credit and true cost in dollars attributed to the fraudulent actions committed by
22 GMAC Mortgage and it's representatives while Mr. McDougal was encumbered in the legal action
23 against the County of Marin. The schedule provided to the Trust represents the value of the subject
24 property at the time Mr. McDougal was forced to file Chapter 7 and is a baseline for determining the
25 merits of claim #5892. In an ironic turn of events Residential Capital LLC. filed for chapter 11 and
26 has since been discharged. Ocwen Loan Servicing has been awarded the servicing of the note. Mr.
27 McDougal will have to prosecute the legitimacy of the August 23, 2010 recording in State court
28 against Ocwen and or Deutsche Bank Trust Americas.

1 The Trust asserts that the court ruled in favor of the County of Marin. This is factually incorrect, case
2 #080838 was settled in a judicial settlement conference. After nearly five years in court, both parties
3 agreed to drop any financial claims and work towards a path to unencumber the subject property.

4

5 CONCLUSION

6

7 Wherefore, Mr. McDougal respectfully requests that the court remove claim # 5892 from the
8 Seventy-fifth Omnibus Objections To Claims request and instruct the Trust to grant the relief
9 requested.

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11 Dated: October 10, 2014

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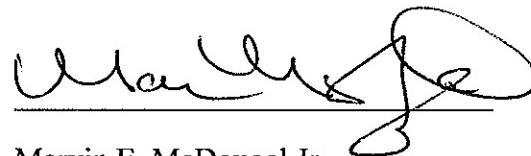
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25

26

27

28



Marvin E. McDougal Jr.

P.O. Box 927 Tiburon, Ca. 94920

A

RECORDED AT REQUEST
OF CAL LAND TITLE

Recording Requested By:
ALL CALIFORNIA MORTGAGE, INC.
DBA ALL AMERICAN MORTGAGE

2006-0028629

Recorded Official Records	REC FEE	63.00
County of Marin		
JOAN C. THAYER Assessor-Recorder		

08:07AM 05-May-2006 | JB
Page 1 of 19



And After Recording Return To:

ALL CALIFORNIA MORTGAGE, INC.
DBA ALL AMERICAN MORTGAGE
131A STONY CIRCLE, 100
SANTA ROSA, CALIFORNIA 95401
Loan Number: 70603017

718999-001

[Space Above This Line For Recording Date]

48-025-09

DEED OF TRUST

MIN: 1001669-0070603017-7

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

- (A) "Security Instrument" means this document, which is dated APRIL 24, 2006 . together with all Riders to this document.
- (B) "Borrower" is MARVIN E. McDUGAL, JR., AN UNMARRIED MAN

Borrower is the trustor under this Security Instrument.

(C) "Lender" is ALL CALIFORNIA MORTGAGE, INC. DBA ALL AMERICAN MORTGAGE

Lender is a CALIFORNIA CORPORATION organized
and existing under the laws of CALIFORNIA
Lender's address is 131A STONY CIRCLE, 100, SANTA ROSA, CALIFORNIA 95401

(D) "Trustee" is CAL LAND TITLE
100 DRAKES LANDING RD, STE 300, GREENBRAE, CALIFORNIA 94904

(E) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is the beneficiary under this Security Instrument. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.

(F) "Note" means the promissory note signed by Borrower and dated APRIL 24, 2006 .
The Note states that Borrower owes Lender ONE MILLION ONE HUNDRED SIXTEEN THOUSAND
AND 00/100 Dollars (U.S. \$ 1,116,000.00) plus interest.

B

2010-0040583

RECORDING REQUESTED BY
FIRST AMERICAN TITLE COMPANY
AS AN ACCOMMODATION ONLY
RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO:

GMAC Mortgage, LLC
1100 Virginia Drive
Ft Washington, PA 19034

Recorded Official Records County of Marin JOAN C. THAYER Assessor-Recorder	REC FEE 18.00
10:18AM 23-Aug-2010	AD Page 1 of 1

File No. 7314.33948

Min No. 1001669-0070603017-7

IMPORTANT NOTICE

Note: After having been recorded, this Assignment should be kept with the Note and Deed of Trust hereby assigned

ASSIGNMENT OF DEED OF TRUST

FOR VALUE RECEIVED, the undersigned hereby grants, assigns, and transfers to Deutsche Bank Trust Company Americas as Trustee all beneficial interest under that certain Deed of Trust dated April 24, 2006, executed by MARVIN E. MCDOUGAL, JR., an unmarried man to Cal Land Title, as Trustee; and recorded May 5, 2006, as Document No. 2006-0028629, in the Official Records of the County Recorder of Marin County, CA.

TOGETHER with the note or notes therein described and secured thereby, the money due and to become due thereon, with interest, and all rights accrued or to accrue under said Deed of Trust including the right to have reconveyed, in whole or in part the real property described therein.

Dated: 8/11/10

#7

Mortgage Electronic Registration System, Inc
("MERS") as nominee for All California
Mortgage, Inc. DBA All American Mortgage

Thomas Strain
Thomas Strain
Assistant Secretary

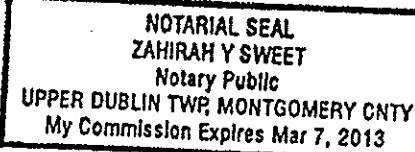
State of Pennsylvania
County of Montgomery

On 8/11/10 before me, Zahirah Y Sweet Notary Public, personally appeared Thomas Strain, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same and his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Zahirah Y Sweet



C

Pg 1 of 1
November 01, 2010GLORIA L. FRANKLIN, CLERK
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA**ROUTH CRABTREE OLSEN, P.S.**

1 Edward T. Weber #194963
 2 Jonathan J. Damen #251869
 3 505 N. Tustin Ave, Suite 243
 4 Santa Ana, California 92705
 Telephone 714-277-4937
 Facsimile 714-277-4899
 Email jdamen@rcolegal.com

Signed: October 28, 2010

ALAN JAROSLOVSKY
 U.S. Bankruptcy Judge

6 File No.: 7314.33948

7 Attorneys for Movant

8
9 **UNITED STATES BANKRUPTCY COURT**10 **NORTHERN DISTRICT OF CALIFORNIA**11 **SANTA ROSA DIVISION**

12 In re:

13 Marvin E. McDougal, Jr.

Bk. No. 10-12725-AJ

R.S. No.: JJD-612

Judge Alan Jaroslovsky

Chapter 7

14 Debtor.

*ORDER GRANTING RELIEF FROM
AUTOMATIC STAY*15
16 Preliminary Hearing:

Date: October 21, 2010

Time: 9:00 am

Place: U.S. Bankruptcy Court

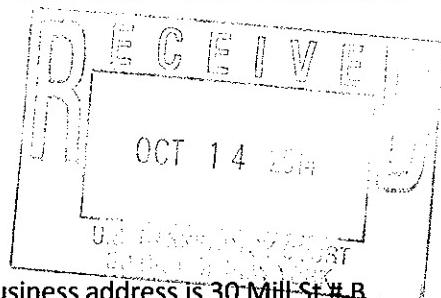
99 South "E" Street

Santa Rosa, CA 95404

22 The Motion for Relief from Automatic Stay of Deutsche Bank Trust Company Americas
 23 as Trustee ("Movant" hereinafter), a secured creditor, came on for hearing before the Honorable
 24 Alan Jaroslovsky. Appearances were made as noted on the record.

25
26 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, upon review of the
 27 evidence presented, that the automatic stay of §362(a) is terminated as to the Debtor(s) and the

ORDER GRANTING RELIEF FROM AUTOMATIC STAY



PROOF OF SERVICE

I declare that:

I am over the age of 18 years and not a party to the within action. My business address is 30 Mill St # B
Healdsburg Ca. 95448

On the date listed below, I served the following document(s):

LIST DOCUMENTS HERE: Marvin E. McDougal Jr's Claim #5892 Response to Rescap Borrower Claims Trust's Seventy-Fifth Omnibus Objection to Claims

By transmitting a true copy to: Those parties on the attached service list

Via the following method:

(By E-Mail): By personally transmitting a true copy thereof via electronic mail to LexisNexis for e-mailing to all parties in this action per the electronic service list.

(By Mail): This document, which is in an envelope addressed as stated above, sealed with postage thereon fully prepaid and will be deposited with the United States Postal Service this date in the ordinary course of business.

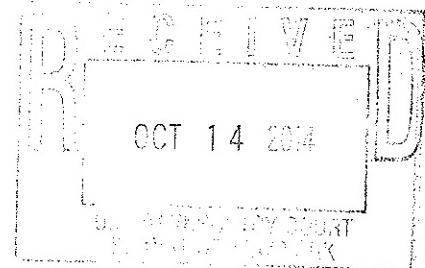
(By Fax): By placing a true and correct into the facsimile machine located at 100 Pringle Avenue, Walnut Creek, California on this date and transmitting to all parties via facsimile transmittal.

(By Personal Service): By personally delivering a true copy thereof to the office of the addresses attached by courier service

I declare under penalty of perjury that the foregoing is true and correct. Executed on this October 10, 2014, at Healdsburg , California.

Tim Monahan
Tim Monahan

Service List



**Chambers of the Honorable Martin Glenn
United States Bankruptcy Judge**

The Clerks Office

**United States Bankruptcy Court Southern District of New York
Alexander Hamilton Custom House
1 Bowling Green
New York, NY. 10004**